

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY PANAMA

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E.O. 11652: N/A

TAGS: EINV, PN

SUBJECT: EXPROPRIATION--CITRICOS DE CHIRIQUI S.A.

1. SUMMARY: DEPARTMENT HAS RECEIVED LEGAL MEMORANDUM CLAIMING EXPROPRIATION OF CITRICOS DE CHIRIQUI AND REQUESTI4G IMPLEMENTATION OF LEGISLATIVE SANCTIONS. LEGAL COUNSEL FOR UNNAMED U.S. CITIZEN INVESTOR HAS REQUESTED THAT CASE BE CONSIDERED BY INTERAGENCY EXPROPRIATION GROUP AT MID-DECEMBER MEETING. REQUEST THAT EMBASSY PROVIDE ANY AVAILABLE BACKGROUND INFORMATION ON THE CASE. END SUMMARY.

2. IN LETTER FROM LAW FIRM OF RAGAN AND MASON, DEPARTMENT WAS PROVIDED WITH LEGAL MEMO GIVING HISTORY AND CIRCUMSTANCES SURROUNDING SEIZURE OF CITRICOS DERCHIRIQUI AND FAILURE OF SUBSEQUENT ATTEMPTS TO REACH
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AGREEMENT ON COMPENSATION. FACTS ACCORDING TO MEM ARE AS FOLLOWS: COMPANY WAS ESTABLISHED IN 1962 AND CONSISTED OF CITRUS PLANTATION AND JUICE CONCENTRATE

FACILITIES IN PROVINCE OF CHIRIQUI. CORPORATION IS WHOLLY OWNED BY LIBERIAN CORPORATION, SEATANKERS INC. WHICH IN TURN IS WHOLLY OWNED BY UNNAMED U.S. CITIZEN THROUGH

HIS OWNERSHIP OF INTERMEDIATE STOCKHOLDING CORPORATIONS.

CITRICOS NOTIFIED GOP ON SEPT. 17, 1974 THAT IT INTENDED TO TERMINATE OPERATIONS AND DISCUSSIONS WERE INITIATED TO ARRANGE FOR GOP TO OPERATE AND POSSIBLY PURCHASE CITRICOS MOVABLE ASSETS (UNDER CONTRACT, FIXED ASSETS WERE TO REVERT TO GOP WITHOUT LOSS IN CASE OF TERMINATION OF OPERATIONS). GOP PERMISSION TO TERMINATE WORKERS WAS ALSO SECURED AND WORKERS WERE TERMINATED IN NOVEMBER 1974. NEGOTIATIONS ON GOP OPERATION OF FACILITY PRODUCED AGREEMENT (TERMS UNSPECIFIED) WHICH WAS TO BE SIGNED DECEMBER 2, 1974. HOWEVER, BEFORE THIS COULD TAKE PLACE, MEETING WAS POSTPONED AND ON DECEMBER 5, 1974 GOP ISSUED DECREE NO. 119 SEIZING ALL ASSETS OF CITRICOS.

3. DECREE PROVIDED FOR APPOINTMENT OF COMMISSION TO NEGOTIATE COMPENSATION BUT NO APPOINTMENTS WERE MADE. NEGOTIATIONS WITH VARIOUS GOP OFFICIALS DID OCCUR, HOWEVER, AND UNDER DIRECTION OF GOP VICE PRESIDENT GONZALEZ AGREEMENT WAS REACHED IN SEPTEMBER 1975 TO PAY DOLS 5.9 MILLION WITH FIRST PAYMENT IN JANUARY 1976. HOWEVER, THIS OFFER WAS WITHDRAWN AND IN JUNE 1976 GOP MINISTER OF PLANNING AND ECONOMIC POLICY BARLETTA OFFERED COMPENSATION OF DOLLS 1 MILLION. OFFER WAS REFUSED BY COMPANY.
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4. LEGAL COUNSEL HAS REQUESTED THAT CITRICOS CASE BE CONSIDERED BY INTERAGENCY EXPROPRIATION GROUP AND THAT USG INVOKE SANCTIONS REQUIRED BY U.S. LEGISLATION. THESE SANCTIONS INCLUDE SUSPENSION OF BILATERAL ASSISTANCE (HICKENLOOPER AMENDMENT TO FOREIGN ASSISTANCE ACT); OPPOSITION TO LOANS TO PANAMA BY INTERNATIONAL DEVELOPMENT BANKS (GONZALEZ AMENDMENT); AND SUSPENSION OR WITHDRAWAL OF GSP (TRADE ACT OF 1974 SECTION 502) IN CASES WHERE HOST GOVERNMENTS EXPROPRIATE PROPERTIES OF U.S. CITIZENS AND DO NOT TAKE APPROPRIATE STEPS TO PAY COMPENSATION AS REQUIRED BY INTERNATIONAL LAW.

5. COMPLETE COPY OF MEMO MAILED TO EMBASSY BY RAGAN AND MASON. IN ORDER THAT INTERAGENCY GROUP MAY HAVE AS MUCH INFORMATION AS POSSIBLE REGARDING THIS CASE, REQUEST THAT EMBA-SY PROVIDE ANY INFORMATION THAT IT MAY HAVE OR BE ABLE TO DEVELOP REGARDING SEIZURE OF CITRICOS AND SUBSEQUENT EFFORTS TO NEGOTIATE COMPENSATION WITH GOP. FULL CONSIDERATION HAS NOT YET BEEN GIVEN TO EITHER VALIDITY OF CLAIM OR OTHER FACTORS REGARDING APPARENT LACK OF PROGRESS TOWARD SETTLEMENT.

IN VIEW OF ABOVE SUGGEST THAT FOR THE TIME BEING YOU
REFRAIN FROM DISCUSSING MATTER DIRECTLY WITH GOP. IN

ORDER THAT INFORMATION BE AVAILABLE FOR NEXT EXPROPRIA-
TION GROUP MEETING REQUEST REPORT BY DECEMBER 6. VANCE

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